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14
15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN JOSE DIVISION

18
19 JONATHAN DAVIDSON,

20 Plaintiff,

21 v.

22 HEWLETT-PACKARD COMPANY,
HEWLETT-PACKARD ENTERPRISE,
UNITED HEALTHCARE, UNITED
23 HEALTHCARE SERVICES, INC.,
UNITED HEALTH GROUP, DR.
ANGELIQUE GREEN, DR. PETER
24 STANGEL, DR. EDWARD
GREENBERG, AND DOES 1 THROUGH
25 50,

26 Defendants.

27
28 AND

**CASE NOS. 5:16-CV-01928-EJD;
5:17-CV-00694-BLF**

**DEFENDANTS' ADMINISTRATIVE
MOTION TO CONSIDER WHETHER
CASES SHOULD BE RELATED**

1 CORINNA DAVIDSON,

2 Plaintiff,

3 v.

4 UNITED HEALTHCARE, UNITED
5 HEALTHCARE SERVICES, INC.,
6 UNITED HEALTHCARE INSURANCE
7 COMPANY, UNITED HEALTH GROUP
8 INCORPORATED, DR. ANGELIQUE
GREEN, DR. PETER STANGEL, DR.
EDWARD GREENBERG, DR. LAUREN
STANDIG, AND DOES 1 THROUGH 50
EXCLUSIVE,

9 Defendants.

10 Pursuant to Local Civil Rule 3-12, Defendants, Hewlett-Packard Company, Hewlett-Packard
11 Enterprise Company, UnitedHealthcare, United Healthcare Services, Inc., United Healthcare
12 Insurance Company, UnitedHealth Group Incorporated, Dr. Angelique Green, Dr. Peter Stangel, Dr.
13 Edward Greenberg, and Dr. Lauren Standig, move the Court to consider whether the above-
14 captioned cases are related as follows: Defendants request an Order (1) finding *Jonathan Davidson*
15 *v. Hewlett-Packard Co., et al.*, Case No. 5:16-cv-01928-EJD (N.D. Cal.) (hereinafter “*Jonathan*
16 *Davidson Action*”) and *Corinna Davidson v. UnitedHealthcare, et al.*, Case No. 5:17-cv-00694-BLF
17 (N.D. Cal.) (hereinafter “*Corinna Davidson Action*”) are related matters; and (2) awarding such
18 other relief to Defendants as the Court deems just and appropriate. Defendants’ motion is brought
19 under Local Civil Rule 3-12 on the grounds that the two actions contain common questions of law
20 and fact while finding the two actions related will serve interests in judicial economy.

21 **I. STATEMENT OF REQUESTED RELIEF**

22 Pursuant to Local Civil Rule 3-12, Defendants request that the Court find the *Jonathan*
23 *Davidson Action* is related to *Corinna Davidson Action*.

24 **II. STATEMENT OF ISSUES TO BE DECIDED [L.R. 7-4(a)(3)]**

25 This motion raises the following issues: (1) whether the *Jonathan Davidson Action* and
26 *Corinna Davidson Action* involve common questions of law and fact; and (2) whether judicial
27 economy would result from finding the *Corinna Davidson Action* is related to the first-filed
28 *Jonathan Davidson Action*.

1 **III. INTRODUCTION/STATEMENT OF RELEVANT FACTS**

2 Pursuant to Corinna Davidson's ("Mrs. Davidson") employment at Hewlett Packard
 3 Enterprise Company ("HPE"), she is a participant in HPE's medical benefits plans. (ECF No. 11-1
 4 ¶ 44 in *Corinna Davidson Action*; Decl. of E. Karr, ¶ 3 (attached as "Exhibit 1").) Mrs. Davidson's
 5 husband, Jonathan Davidson ("Mr. Davidson"), is a beneficiary of HPE's medical benefit plans.
 6 (ECF No. 39 ¶ 3 in *Jonathan Davidson Action*; ECF No. 11-1 ¶ 44 in *Corinna Davidson Action*;
 7 Decl. of E. Karr, ¶ 4.) Mrs. Davidson's employer-sponsored medical coverage consists of two
 8 pieces: (a) the active medical benefit program offered to similarly-situated eligible employees of
 9 HPE (and other eligible affiliate companies); and (b) a supplemental medical benefit program (the
 10 "Supplemental Program")¹ that provides custodial skilled nursing care to Mrs. Davidson's husband.
 11 (Decl. of E. Karr, ¶ 5.) These benefits are component benefits of the comprehensive employee
 12 benefit plan provided to Hewlett Packard Enterprise Company employees.² (Decl. of E. Karr, ¶ 6.)
 13 Collectively, Mrs. Davidson's medical benefit programs are referred to as the "Plan."

14 Pursuant to the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. §§
 15 1001-1436, as amended, the Plan is an employee welfare benefit plan. 29 U.S.C. § 1002(1).

16 Mr. Davidson has sought medical benefits from the Plan. (See ECF No. 39 ¶¶ 1-5 in
 17 *Jonathan Davidson Action*; see ECF No. 11-1 ¶¶ 12, 44 in *Corinna Davidson Action*.) Mr. Davidson
 18 has and continues to receive medical benefits from the Plan. (ECF No. 39 ¶¶ 3, 18 in *Jonathan*
 19 *Davidson Action*; ECF No. 11-1 ¶ 30 in *Corinna Davidson Action*.) Through the *Jonathan Davidson*

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22 ¹ Because Plaintiffs refer to certain aspects of the Plan, it is central to their claims, and no party would question the
 23 authenticity of the document, Defendants are entitled to rely upon the Supplemental Program summary plan description
 24 and attach it in support of this Motion. *United States v. Corinthian Colls.*, 655 F.3d 984, 999 (9th Cir. 2011) (citation
 25 omitted); *Parrino v. FHP, Inc.*, 146 F.3d 699, 706 (9th Cir. 1998), superseded by statute on unrelated grounds as stated
 26 in *McManus v. McManus Fin. Consultants, Inc.*, 552 F. App'x 713, 714 (9th Cir. 2014) (holding, in an ERISA case,
 when a complaint made reference to a defendant's "group plan" and its "cost containment program[,]" a district court
 may properly consider ERISA plan documents (the authenticity of which is not contested and upon which the plaintiff's
 complaint necessarily relies)).

27 ² Mrs. Davidson and her husband's medical benefits, between January 1, 2015 and October 31, 2015, were provided
 28 through the HP Inc. Comprehensive Welfare Benefits Plan. (Decl. of E. Karr, ¶ 7.) Effective November 1, 2015, Mrs.
 Davidson and her husband's medical benefits were provided through the Hewlett Packard Enterprise Comprehensive
 Welfare Benefits Plan. (Decl. of E. Karr, ¶ 8.)

1 Action and *Corinna Davidson Action*, Mr. and Mrs. Davidson, respectively, seek to expand the scope
 2 of this ERISA action by alleging state-law claims which ERISA preempts.³

3 **IV. ARGUMENT**

4 Local Civil Rule 3-12 of the United States District Court for the Northern District of
 5 California permits the Court to find related actions if they “concern substantially the same parties,
 6 property, transaction or event”; and “it appears likely that there will be an unduly burdensome
 7 duplication of labor and expense or conflicting results if the cases are conducted before different
 8 Judges.” Local Civil Rule 3-12 is very similar to Rule 42(a)(2) of the Federal Rules of Civil
 9 Procedure which concerns consolidation of matters. The Court has broad discretion under Rule 42
 10 to consolidate cases pending in the same district. *Investors Research Co. v. U.S. Dist. Ct. for the*
 11 *Cent. Dist. of Cal.*, 877 F.2d 777, 777 (9th Cir. 1989). The Court should weigh the saving of time
 12 and effort finding the two actions related would produce against any inconvenience, delay, or
 13 expense that it would cause. *Finder v. Leprino Foods Co.*, Case No. 13-CV-02059-AWI-BAM,
 14 2016 WL 6875259, *2 (E.D. Cal. Nov. 21, 2016) (citations omitted).

15 **A. Both Cases Seek the Same Relief for the Same Claims Against Nearly Identical
 16 Parties**

17 Both the *Jonathan Davidson Action* and the *Corinna Davidson Action* seek to recover
 18 damages against Defendants under a variety of state-law claims. (ECF No. 39 ¶¶ 74-106 in
 19 *Jonathan Davidson Action*; ECF No. 11-1 ¶¶ 80-114 in *Corinna Davidson Action*.) Both actions
 20 claim that Defendants violated state law in their administering the Plan. As to the many common
 21 questions of law involved in the *Jonathan Davidson Action* and the *Corinna Davidson Action*, by
 22 way of illustration only, Exhibit 2, under “Both Cases Seek the Same Relief for the Same Claims
 23 Against Nearly Identical Parties,” shows the identical state-law causes of action. Because each case
 24 arises from the same alleged conduct by Defendants and each case alleges substantially overlapping
 25 causes of action against largely the same parties, finding the matters related is appropriate. *Hacker*
 26 ///

27 ³ On January 11, 2017, the Court dismissed Mr. Davidson’s state-law claims against Defendants and dismissed the three
 28 individual doctor defendants. (ECF No. 75 in *Jonathan Davidson Action*.) On January 25, 2017, the corporate
 Defendants answered Mr. Davidson’s remaining allegations against them. (ECF No. 76 in *Jonathan Davidson Action*.)

v. Peterschmidt, Case No. 06-03468, 2006 WL 2925683, *3 (N.D. Cal. Oct. 12, 2006). The *Corinna Davidson Action* differs only with respect to a single cause of action (ECF No. 11-1 ¶¶ 109-114) when compared to the claims asserted in the *Jonathan Davidson Action*. This single dissimilar cause of action is insufficient to require different proceedings. *Modesto Irrigation Dist. v. Gutierrez*, Case No. 06-CV-00453 OWW DLB, 2007 WL 915228, *4 (E.D. Cal. Mar. 26, 2007) (finding consolidation appropriate where three of fifteen claims in two different actions overlap). Furthermore, all (with the exception of two) of the named defendants in the *Corinna Davidson Action* are named in the *Jonathan Davidson Action*, which further supports finding the matters related. *Nat'l R.R. Passenger Corp v. Camargo Trucking*, Case No. 12-CV-775 AWI-BAM, 2013 WL 101811, *2 (E.D. Cal. Jan. 8, 2013) (finding consolidation appropriate when defendants in the proposed consolidated actions are “similar although not identical” and the claims concern liability for the same factual occurrence); *Team Enters., LLC v. W. Inv. Real Estate Trust*, Case No. 08-CV-00872-LJO-SMS, 2008 WL 4712759, *2 (E.D. Cal. Oct. 23, 2008) (finding consolidation appropriate where the case involves the same or similar parties and similar claims).

B. Both Actions Share Common Factual Allegations

The *Jonathan Davidson* and the *Corinna Davidson Actions* claim that Defendants’ alleged conduct in administering the Plan violated state law. Exhibit 2, under “Both Actions Share Common Factual Allegations,” demonstrates many of the overlapping factual allegations exist when comparing the *Jonathan Davidson Action* and *Corinna Davidson Action*. The similarities in factual allegations between the *Jonathan Davidson Action* and *Corinna Davidson Action* weigh in favor of the Court’s finding the two matters related. See *Finder*, 2016 WL 6875259, *5. From Defendants’ perspective, the only factual differences in the two matters are (1) that one is brought by a Plan participant and the other action is brought by a Plan beneficiary, and (2) that the *Corinna Davidson Action* includes factual allegations related to January 2017 care related to Plan administration. These slight differences should not outweigh the vast similarities in the two actions’ respective allegations. Specifically, the *Corinna Davidson Action*’s allegations related to January 2017 care are not sufficiently different from her other allegations because the January 2017 allegations still arise from

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1 the same Plan which gave rise to all claims in both actions. (ECF No. 39 ¶ 3 in *Jonathan Davidson*
 2 *Action*; ECF No. 11-1 ¶ 44 in *Corinna Davidson Action*.)

3 **C. To Promote Judicial Efficiency, The *Jonathan Davidson Action* and *Corinna***
 4 ***Davidson Action* Should Be Considered Related**

5 The saving of time and effort relatedness would produce includes avoiding potentially (1)
 6 incongruent results regarding whether ERISA preempts the state-law causes of action and whether
 7 the individual doctor defendants are appropriate parties; (2) duplicative discovery; and (3) inefficient
 8 motion practice. By comparison, any inconvenience, delay, or expense that finding the matters
 9 related would cause appears to be minimal. Both cases are in their infancy as (1) Defendants only
 10 recently answered the remaining claims in the *Jonathan Davidson Action* (ECF No. 76); (2)
 11 Defendants only recently removed Mrs. Davidson's state-law complaint to the Court (ECF Nos. 1,
 12 11); and (3) no Rule 26 conference or Rule 16 proceedings have transpired. Thus, finding the
 13 matters related is appropriate. *Cf. Mills v. Beech Aircraft Corp.*, 886 F.2d 758, 762 (5th Cir. 1989)
 14 (upholding a denial of consolidation with regard to two matters where the cases were at different
 15 stages of preparedness for trial); *Nat'l R.R. Passenger Corp.*, 2013 WL 101811, *3 (noting that due
 16 to the similar early procedural stages of the proposed consolidated actions, consolidation would not
 17 result in prejudice or delay); *In re Facebook Privacy Litig.*, Case No. C10-02389-JW, 2010 WL
 18 5387616, *1 (N.D. Cal. Dec. 21, 2010) (noting that due to the similar early procedural stages of the
 19 proposed consolidated actions, consolidation is appropriate).

20 **V. CONCLUSION**

21 Because the *Jonathan* and *Corinna Davidson Actions* involve common questions of law and
 22 fact, *i.e.*, whether ERISA preempts the state-law causes of action based upon Defendants'
 23 administering the Plan, the Court should find the two actions are related.

24 Dated: March 10, 2017

25 Firmwide:145520679.7 066902.1127

/s/ *Danielle K. Herring*

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